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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/809,273	03/16/2001	Hiroyuki Nishii	Q63124	4971

7590 10/04/2004

SUGHRUE, MION, ZINN, MACPEAK & SEAS
2100 pennsylvania Avenue, N.W.
Washington, DC 20037

EXAMINER

GARRETT, DAWN L

ART UNIT	PAPER NUMBER
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1774

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/809,273

Applicant(s)

NISHII ET AL.

Examiner

Dawn Garrett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8-31-2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4,5,10 and 11 is/are allowed.
- 6) ☒ Claim(s) 1,2,6-8 and 12 is/are rejected.
- 7) ☒ Claim(s) 3 and 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3-3-2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 31, 2004 has been entered.
2. The previously submitted amendment dated August 2, 2004 has been entered as requested. Claims 1 and 7 were amended. Claims 1-12 are currently pending.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. The rejection of claims 1, 6, 7, and 12 under 102(a) as being anticipated by Ebisawa et al. (EP 0 969 700 A1) is withdrawn due to the added limitation in claims 1 and 7 requiring that the member comprising a container is inside the electroluminescent device.
5. The rejection of claims 1, 6, 7, and 12 under 102(e) as being anticipated by Ebisawa et al. (US 6,284,342) is withdrawn due to the added limitation in claims 1 and 7 requiring that the member comprising a container is inside the electroluminescent device.
6. Claims 1, 2, 6-8, and 12 are again rejected under 35 USC 102(b) as being anticipated by Yamashita et al. (US 5,189,405). Yamashita et al. describes a covering over a thin film electroluminescent element (see abstract). The "moisture absorption sheet" (4), which may be formed of woven fabric (see col. 3, lines 6-7) reads upon the instant porous material and dispersed in the sheet is moisture absorbent powder per the instant removing agent capable of removing a prescribed gaseous component. The removing agent removes moisture, which is

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found in gaseous form in the atmosphere. The container described by Yamashita is formed of multi-layered sheets. The resin layer (53) reads upon the non-porous sheet (material) of instant claims 1, 2, 7 and 8. The moisture absorbent sheet (4) reads upon the porous sheet of instant claims 2 and 8. They are attached at the peripheries or edges of the sheets (see figure). Sheets (4) and (53) are further disposed within an outer protective layer (52) which together with the substrate surrounds the entire electroluminescent device. The layers which read upon the "member" of the claims are considered to be "inside the electroluminescent device".

Allowable Subject Matter

7. Claims 4, 5, 10, and 11 are allowed. Reasons for allowance were set forth in the Office action mailed August 27, 2003.

8. Claims 3 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Reasons were given in the Office action mailed April 1, 2004.

Response to Arguments

9. Applicant's arguments with regard to Ebisawa et al. (EP 0 969 700 A1) and Ebisawa et al. (US 6,284,342) are considered moot in view of the withdrawal of these rejections in this Office action.

Applicant's arguments filed August 2, 2004 have been fully considered but they are not persuasive. With regard to the rejection of claims 1, 2, 6-8 and 12 as anticipated by Yamashita et al. (US 5,189,405), applicant argues the claims have been amended to recite that the member is put inside the electroluminescent device. The examiner submits the outer layer (52) and the substrate constitute an outer container in which the functional layers of the electroluminescent

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device as well as layers (4), (53) and moisture absorbent powder, which read upon the “member”, are disposed inside. Applicant further argues “the member is separately placed in the inner space of the closed housing of the electroluminescent device and does not constitute a part of the closed housing by building it into the housing”. The examiner submits that the claims do not require that the “member” not contact the outermost housing. In addition, Figure 6 shows that the member (1) touches both the outer housing and the functional layers of the device. Yamashita et al. shows an outermost housing comprised of layer (52) and the substrate portion that is separate and distinct from layers (4), (53) and the moisture absorbent powder, which read upon the “member”. Although the “member” of the claims is said to be a “container”, the only components required for said container are two sheets (a porous sheet and a non-porous sheet) and a removing agent. It is respectfully submitted that Yamashita et al. discloses all the required components of the “container” and they are separate and distinct from an outermost container surrounding the EL device comprised of layers (52) and the substrate portion.

The rejection over Yamashita et al. is respectfully maintained.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dawn Garrett whose telephone number is 571-272-1523. The examiner can normally be reached Monday through Friday during normal business hours. Please allow the examiner twenty-four hours to return your call.

If reasonable attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye, can be reached at 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Dawn Garrett
Primary Examiner
Art Unit 1774

D.G.
September 27, 2004